

AMENDED IN ASSEMBLY MARCH 15, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1888**

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**Introduced by Assembly Member Ma**

February 16, 2010

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An act to amend Sections ~~1120, 1127, and 1190~~ *1127, 1137, 1190, and 1190.1* of the Harbors and Navigation Code, relating to harbors and ports, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1888, as amended, Ma. Harbors and ports: Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun: pilotage.

Existing law provides for the regulation and licensing of pilots for Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun. Existing law specifies the rates of *bar* pilotage for vessels ~~entering or leaving Monterey Bay and inward or outward bound through the Golden Gate and into or out of~~ the Bays of San Francisco, San Pablo, and Suisun ~~and also imposes certain movement fees and training surcharges. Vessels that use pilotage services and their tackle, apparel, furniture, and other appurtenances, and their owners, operators, and agents are jointly and severally liable for pilotage fees and surcharges.~~

This bill would exempt from *those* pilotage fees and surcharges noncommercial vessels that are maritime academy training vessels and vessels owned and exhibited by nonprofit museums or foundations.

Existing law exempts from pilotage fees a vessel sailing under a coastwise license or appropriately endorsed registry and engaged in the coasting trade, as described, unless a pilot or inland pilot is actually used. A foreign vessel, a vessel bound to or from a foreign port, or a vessel sailing under a register is required to use a pilot or inland pilot.

These provisions do not apply to a vessel that is less than 300 gross tons and is manufactured and used for private recreation.

This bill would instead state that those provisions do not apply to a vessel that is less than 750 gross tons and is manufactured and used for private recreation.

Existing law specifies a minimum charge for bar pilotage of \$662 for each vessel piloted.

This bill would increase that minimum charge for bar pilotage to \$1,500 for each vessel piloted.

Existing law requires that all moneys received by the Board of Pilot Commissioners pursuant to any provision of law shall be paid into the State Treasury to the credit of the Board of Pilot Commissioners' Special Fund and are continuously appropriated to the board for the payment of the compensation and expenses of the board and its officers and employees.

By increasing the amount of revenue deposited into a continuously appropriated fund, the bill would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. Section 1120 of the Harbors and Navigation Code~~
- 2     ~~is amended to read:~~
- 3     ~~1120. (a) Except as provided in subdivision (b), vessels that~~
- 4     ~~use pilotage services, and their tackle, apparel, furniture, and other~~
- 5     ~~appurtenances, and their owners, operators, and agents are jointly~~
- 6     ~~and severally liable for pilotage fees and for the surcharges~~
- 7     ~~established pursuant to this division.~~
- 8     ~~(b) The following noncommercial vessels are exempt from~~
- 9     ~~pilotage fees and surcharges established pursuant to this division;~~
- 10    ~~however, these vessels are subject to Section 1198.~~
- 11    ~~(1) Maritime academy training vessels, whether domestic or~~
- 12    ~~foreign.~~
- 13    ~~(2) Vessels owned and exhibited by a nonprofit museum or~~
- 14    ~~foundation.~~
- 15    ~~SEC. 2.~~
- 16    ~~SECTION 1. Section 1127 of the Harbors and Navigation Code~~
- 17    ~~is amended to read:~~

1 1127. (a) The Legislature finds and declares that it is the policy  
2 of the state to ensure the safety of persons, property, and vessels  
3 using the waters of Monterey Bay and the Bays of San Francisco,  
4 San Pablo, and Suisun and to avoid damage to those waters and  
5 surrounding ecosystems as a result of vessel collision or damage  
6 by providing competent, efficient, and regulated pilotage for vessels  
7 required by this division to secure pilotage services.

8 (b) This section does not supersede, modify, or otherwise alter  
9 pilot practices that are not safety related, including, but not limited  
10 to, the determination of rates charged for pilot services or  
11 employer-employee relationships for individuals, agencies, or  
12 organizations involved in providing pilotage services between any  
13 port of Monterey Bay and the Bays of San Francisco, San Pablo,  
14 and Suisun and any other port of the United States that is in  
15 existence on December 31, 1995, or otherwise abridge the authority  
16 of local port or harbor districts relating to pilotage in effect on  
17 December 31, 1995.

18 (c) The board shall regulate pilotage on waters of the state as  
19 provided in this division.

20 (d) A vessel sailing under a coastwise license or appropriately  
21 endorsed registry and engaged in the coasting trade between a port  
22 of Monterey Bay and the Bays of San Francisco, San Pablo, and  
23 Suisun and another port of the United States is exempt from all  
24 pilotage charges unless a pilot or inland pilot is actually employed.  
25 A foreign vessel and a vessel bound between a foreign port and a  
26 port of Monterey Bay and the Bays of San Francisco, San Pablo,  
27 and Suisun, and a vessel sailing under a register between a port of  
28 Monterey Bay and the Bays of San Francisco, San Pablo, and  
29 Suisun and another port of the United States, shall use a pilot or  
30 inland pilot holding a license issued pursuant to this division,  
31 except as otherwise provided by law.

32 (e) Subdivision (d) does not apply to a vessel that is less than  
33 750 gross tons and is manufactured and used for private recreation.

34 *SEC. 2. Section 1137 of the Harbors and Navigation Code is*  
35 *amended to read:*

36 1137. (a) The account required pursuant to Section 1136 shall  
37 show all of the following:

38 (1) The name of each vessel piloted.

39 (2) The name of each vessel for which pilotage has been charged  
40 or collected.

1 (3) The amount charged to or collected for each vessel.

2 (4) Any rebates made and allowed and for what amounts.

3 (5) *The amount of the fees and surcharges not collected pursuant*  
4 *to subdivision (c) of Section 1190.* ~~The~~

5 (6) *The depth of each vessel's draft and its highest gross tonnage.*

6 ~~(6)~~

7 (7) Whether the vessel was inward or outward bound.

8 (b) The board shall record the accounts in full detail in a book  
9 prepared for that purpose. The account book is a public record.

10 SEC. 3. Section 1190 of the Harbors and Navigation Code is  
11 amended to read:

12 1190. (a) A vessel spoken inward or outward bound shall pay  
13 the following rate of bar pilotage through the Golden Gate and  
14 into or out of the Bays of San Francisco, San Pablo, and Suisun:

15 (1) Eight dollars and eleven cents (\$8.11) per draft foot of the  
16 vessel's deepest draft and fractions of a foot pro rata, and an  
17 additional charge of 73.01 mills per high gross registered ton as  
18 changed pursuant to law in effect on December 31, 1999. The mill  
19 rates established by this paragraph may be changed as follows:

20 (A) (i) On and after January 1, 2010, if the number of pilots  
21 licensed by the board is 58 or 59 pilots, the mill rate in effect on  
22 December 31, 2006, shall be decreased by an incremental amount  
23 that is proportionate to one-half of the last audited annual average  
24 net income per pilot for each pilot licensed by the board below 60  
25 pilots.

26 (ii) On and after January 1, 2010, if the number of pilots licensed  
27 by the board is fewer than 58 pilots, the mill rate in effect on  
28 December 31, 2006, shall be adjusted in accordance with the  
29 method described in clause (i) as though there are 58 pilots licensed  
30 by the board.

31 (iii) The incremental mill rate adjustment authorized by this  
32 subparagraph shall be calculated using the data reported to the  
33 board for the number of gross registered tons handled by pilots  
34 licensed under this division during the same 12-month period as  
35 the audited annual average net income per pilot. The incremental  
36 mill rate adjustment shall become effective at the beginning of the  
37 immediately following quarter, commencing January 1, April 1,  
38 July 1, or October 1, as directed by the board.

39 (iv) On and after January 1, 2010, if, during any quarter  
40 described in this paragraph, the number of pilots licensed by the

1 board is equal to or greater than 60, clauses (i) to (iii), inclusive,  
2 shall become inoperative on the first day of the immediately  
3 following quarter.

4 (B) There shall be an incremental rate of additional mills per  
5 high gross registered ton as is necessary and authorized by the  
6 board to recover the pilots' costs of obtaining new pilot boats and  
7 of funding design and engineering modifications for the purposes  
8 of extending the service life of existing pilot boats, excluding costs  
9 for repair or maintenance. The incremental mill rate charge  
10 authorized by this subparagraph shall be identified as a pilot boat  
11 surcharge on the pilots' invoices and separately accounted for in  
12 the accounting required by Section 1136. Net proceeds from the  
13 sale of existing pilot boats shall be used to reduce the debt on the  
14 new pilot boats and any debt associated with the modification of  
15 pilot boats under this subparagraph. The board may adjust a pilot  
16 boat surcharge to reflect any associated operational savings  
17 resulting from the modification of pilot boats under this  
18 subparagraph, including, but not limited to, reduced repair and  
19 maintenance expenses.

20 (C) In addition to the incremental rate specified in subparagraph  
21 (B), the mill rate established by this subdivision may be adjusted  
22 at the direction of the board if, after a hearing conducted pursuant  
23 to Article 9 (commencing with Section 11120) of Chapter 1 of  
24 Part 1 of Division 3 of Title 2 of the Government Code, the board  
25 determines that there has been a catastrophic cost increase to the  
26 pilots that would result in at least a 2-percent increase in the overall  
27 annual cost of providing pilot services.

28 (2) A minimum charge for bar pilotage shall be fifteen hundred  
29 dollars (\$1,500) for each vessel piloted.

30 (3) The vessel's deepest draft shall be the maximum draft  
31 attained, on a stillwater basis, at any part of the vessel during the  
32 course of such transit inward or outward.

33 (b) The rate specified in subdivision (a) shall apply only to a  
34 pilotage that passes through the Golden Gate to or from the high  
35 seas to or from a berth within an area bounded by the Union Pacific  
36 Railroad Bridge to the north and Hunter's Point to the south. The  
37 rate for pilotage to or from the high seas to or from a point past  
38 the Union Pacific Railroad Bridge or Hunter's Point shall include  
39 a movement fee in addition to the basic bar pilotage rate as  
40 specified by the board pursuant to Section 1191.

1     (c) (1) *Notwithstanding Section 1120, but except as provided*  
2     *in paragraph (2), only the following noncommercial vessels that*  
3     *use pilotage services are exempt from the pilotage fees and*  
4     *surcharges established pursuant to this division:*

5     (A) *Maritime academy training vessels, whether foreign or*  
6     *domestic.*

7     (B) *Vessels owned and operated by a nonprofit museum or*  
8     *foundation.*

9     (2) *The vessels specified in paragraph (1) are subject to Section*  
10    *1198.*

11    ~~(e)~~

12    (d) The rate established in paragraph (1) of subdivision (a) shall  
13    be for a trip from the high seas to dock or from the dock to high  
14    seas. The rate specified in Section 1191 shall not be charged by  
15    pilots for docking and undocking vessels. This subdivision does  
16    not apply to the rates charged by inland pilots for their services.

17    ~~(d)~~

18    (e) The board shall determine the number of pilots to be licensed  
19    based on the 1986 manpower study adopted by the board.

20    ~~(e)~~

21    (f) Consistent with the board's May 2002 adoption of rate  
22    recommendations, the rates imposed pursuant to paragraph (1) of  
23    subdivision (a) that are in effect on December 31, 2002, shall be  
24    increased by 4 percent on January 1, 2003; those in effect on  
25    December 31, 2003, shall be increased by 4 percent on January 1,  
26    2004; those in effect on December 31, 2004, shall be increased by  
27    3 percent on January 1, 2005; and those in effect on December 31,  
28    2005, shall be increased by 3 percent on January 1, 2006.

29    ~~(f)~~

30    (g) (1) There shall be a movement fee as is necessary and  
31    authorized by the board to recover a pilot's costs for the purchase,  
32    lease, or maintenance of navigation software, hardware, and  
33    ancillary equipment purchased after November 5, 2008, and before  
34    January 1, 2011.

35    (2) The software, equipment, and technology covered by this  
36    subdivision shall be used strictly and exclusively to aid in piloting  
37    on the pilotage grounds. The movement fee authorized by this  
38    subdivision shall be identified as a navigation technology surcharge  
39    on a pilot's invoices and separately accounted for in the accounting  
40    required by Section 1136. The board shall review and adjust as

1 necessary the navigation technology surcharge at least quarterly.  
2 This subdivision shall become inoperative on January 1, 2011.  
3 *SEC. 4. Section 1190.1 of the Harbors and Navigation Code*  
4 *is amended to read:*  
5 1190.1. Every vessel that uses a pilot under this division while  
6 navigating the waters of Monterey Bay shall pay the rate provided  
7 by subdivisions (a) and ~~(e)~~ (f) of Section 1190.

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